

DEPARTMENT OF STATE REVENUE

28920831.LOF

LETTER OF FINDINGS NUMBER: 92-0831 CS

Controlled Substance Excise Tax

For Tax Period: 07-01-92

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Controlled Substance Excise Tax — Imposition

Authority: IC 6-7-3-5

Taxpayer protests the imposition of the controlled substance excise tax on his possession of marijuana.

STATEMENT OF FACTS

On July 1, 1992 taxpayer was arrested for possession of marijuana in Bedford, Indiana. On September 29, 1992 the Department assessed the controlled substance excise tax against the taxpayer in the amount of \$17,496.00 (base tax) plus a one hundred percent penalty. The assessment was calculated on 437.4 grams of marijuana. Taxpayer protests this assessment. Additional relevant facts will be provided below, as necessary.

I. Controlled Substance Excise Tax — Imposition

DISCUSSION

Taxpayer protests the imposition of the controlled substance excise tax on grounds "that he did not knowingly violate any provision of the Indiana Statutes as they relate to any unlawful controlled substances." Protest letter dated October 15, 1992.

Indiana Code section 6-7-3-5 provides for the imposition of the controlled substance excise tax on controlled substances that are:

- (1) delivered;
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer was found in possession of the controlled substance. As such, taxpayer is subject to the controlled substance excise tax.

Taxpayer alternatively argues that the controlled substance excise tax assessment was discharged in a personal bankruptcy. However, bankruptcy records, provided by the taxpayer, do not show this controlled substance excise tax assessment to be discharged.

FINDING

Taxpayer's protest is denied.